

U.S. Patent Appl. No. 10/728,947- Mockel *et al.*  
Attorney Docket No.: 021123-0306724

### REMARKS

In response to the "Notice of Omitted Items in a Nonprovisional Application", the applicants have amended the specification to remove reference to a Fig. 2. Specifically, no Fig. 2 exists and thus reference to a Fig. 2 in the specification is in error.

Without prejudice to applicants right to seek broader claims in a continuing application, claims 1-23 have been canceled without prejudice and added new claims 24-34. No new matter has been added by new claims 24-34.

New claim 24 is directed to an isolated nucleic acid comprising a nucleotide sequence selected from the group consisting of (a) a nucleotide sequence as set forth in SEQ ID NO: 1 and (b) a nucleotide sequence complementary to (a). Support for new claim 24 can be found throughout the specification, for example, originally filed claim 8, page 2, lines 26 and 27, and page 6, lines 19 and 20.

New claims 25 and 26 are directed to an isolated nucleic acid according to claim 24, wherein one or more of the codons in said SEQ ID NO: 1 are replaced with a degenerate codon or wherein said nucleotide sequence comprises one or more functionally neutral sense mutations that do not alter the enolase polypeptide activity. Support for new claims 25 and 26 can be found throughout the specification, for example, originally filed claim and page 2, lines 26-32.

New claim 27 is directed to an isolated nucleic acid consisting of SEQ ID NO: 1 or a fragment thereof and encoding a polypeptide that has enolase activity. Support for new claim 27 can be found throughout the specification, for example, on page 5, line 32 to page 6, line 5.

New claim 28 is directed to an isolated nucleic acid comprising nucleotides encoding a protein with the amino acid sequence of SEQ ID NO: 2. Support for new claim 28 can be found throughout the specification, for example, on page 6, lines 3-5.

New claims 29 and 30 are directed to the isolated nucleic acid of claim 31, wherein said nucleic acid encodes a polypeptide which is at least 90% or 95% identical to the amino acid sequence set out in SEQ ID NO: 2, and wherein said polypeptide exhibits enolase

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activity. Support for new claims 29 and 30 can be found throughout the specification, for example, on page 2, lines 10-19.

New claim 31 is directed to an isolated nucleic acid comprising a nucleotide sequence selected from the group consisting of (a) the nucleotide sequence as set forth in SEQ ID NO: 3 (b) a nucleotide sequence encoding the polypeptide as set forth in SEQ ID NO: 4, and (c) a nucleotide sequence complementary to (a) or (b). Support for new claim 31 can be found throughout the specification, for example, originally file claims 3-5; page 3, lines 6-14; and page 7, lines 28-32.

New claims 32-34 are directed to vectors and host cells comprising the sequences of claims 24-31. Support for new claims 32-34 can be found throughout the specification, for example, page 7, lines 20-26 and page 8, lines 11-25.

The applicants do not intend by these or any amendments to abandon subject matter of the claims as originally filed or later presented, and reserve the right to pursue such subject matter in continuing applications.


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**CONCLUSION**

In view of the foregoing, the applicants respectfully request that substantive examination be undertaken.

Respectfully submitted,

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